1952.

K

File No. B. Tenancy 52

Legal Dept.
B BRANCH

Subject:— The Bombay Tenancy and Agricultural Lands (Amdt.) Bill 1952

~~[redacted] A. B. U~~ No. XXXI of 1952

Bom. Act No. XXXIII of 1952

pts I & II combined

P.62
E

File No. B. Tenancy/52

[redacted]

PROGRESS SHEET

Bill No. XXXI of 1952 The Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952.

I.	Papers of the Bill received in legal Department for publication on.	18-7-52 -do-
II.	Bill published on	21-7-52.
III.	Papers of the Bill returned to Department on.	
IV.	Bill introduced in the Assembly on	19-8-52.
V.	6 copies of the Bill as introduced in the Assembly sent to the Government of India, Ministry of Law, on	29-9-52.
VI.	6 copies of Select Committee's report sent to Government of India, Ministry of Law, on.	----------
VII.	Bill passed by the Assembly on.	21-8-52.
VIII.	6 Copies of the Bill as passed by the Assembly sent to the Government of India, Ministry of Law, on	29-9-52.
IX.	Bill introduced in the Council on.	23-6-52.
X.	Bill passed by the Council on	-do-
XI.	6 copies of the Bill as passed by the Council sent to the Government of India, Ministry of Law, on	29-9-52.
XII.	Assent of the President received on	6-1-53.
XIII.	Act published on	12-1-53.
XIV.	6 copies of the Act supplied to the Government of India, Ministry of Law, on	19-1-53.
XV.	2 copies of the Act supplied to the Secretary to the Governor on	-do-

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Office of the R.L.A.

Bombay Tenancy & Agricultural Lands Act, 1948. Section 27(2).

Tagai dues-sale of protected tenancy rights for -

It is apparent from section 28 read with section 27(2) of the Bombay Tenancy and Agricultural Lands Act, 1948 that the protected tenancy rights cannot be sold for the recovery of Tagai dues of Government. The view tak en by Revenue Department, is correct.

J.R. Dhurandhar.

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c.c.

Remembrancer of Legal Affairs.

U.R.to R.D. No. 15996, dated the 8th October 1951.

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Office of the R.L.A.

To enable Government to sell the tenancy rights of persons who fail to pay Tagavi dues of Government it is necessary to amend section 27 of the Bombay Tenancy and Agricultural Lands Act, 1948.

2. A requisite draft Bill is sent herewith. The Revenue Department may decide whether the necessary legislation should be in the Form of an Ordinance or a Bill to be introduced at the next Session of the Legislature.

J.R.Dhurandhar.
12/11.

O.C.

Remembrancer of legal Affairs.

U.R.to R.D.No. 17381, dated the 3rd November 1951.

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OFFICE OF THE R.J.A.

A requisite draft converting the draft Bill into a draft Ordinance is sent herewith.

2. The subject-matter of the draft Ordinance falls under entries 14, 18 and 30 in List I I and entry 6 in List III in the Seventh Schedule to the Consitution.

3. Unless there is anything repugnant in the subjec t or context, section 2(8) of the Bombay Tenancy and Agricultural Lands Act, 1948, d-efines the expression "land" so as to include the site of any dwelling house occupi ed by an agriculturist. Clause 2 of the draf t Ordinance enables a tenant to mortgage or create a charge on his land in consider —ation of a loan advanced to him by Governme—nt. Presumably it is not intended to ask a tenant under this clause to mortgage or create a charge on his dwelling ho — use as well but such mortgage or charge w—ill be resptricted to the land used by him for agricultural purposes. Although the subject-matter of the Bill also falls u-nder entry 6 in List III in the Seventh Schedule to the Constitution, that entry i .e. "Transfer of property other than agricultural land," does not apply to any law rel—a ting to agricultural land. Such law is covered by entry 18 in List II i.e. transf —eror alienation of agricultura

. Contd.

agricultural land. The proposed Ordinance does not contain any provision repugnant to the provisions of any earlier law made by Parliament or any existing law with respect to any matter enumerated in the Concurrent Legislative List and therefore it is not necessary to obtain instructions from the President under the proviso to article 213(1) read with article 254(2) before the Ordinance is promulgated by the Governor.

The Department will no doubt attach the requisite Statement to the Ordinance and send the papers to this Department with 20 copies after obtaining H.E.'s signature on the Statement, for taking further action of publication of the Ordinance in the Gazette.

J.R.Dhurandhar.
21/11
O.C.

Remembrancer of Legal Affairs.

U.R.to R.D.No. 972 Confl. dt the 21st November 1951.

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A draft Bill embodying thepoints suggested in the note of H.M.(R.D.) as well as those referred to in R.D. office note of 5th June, is herewith put up.

Clause 2. In clause (3) ofH.M.'s minute it is suggested that the crop share system of rent shouldbe done away with. As pointed out in para 5 of R.D.note, section 8 of theBombay Tenancy & Agricultural Lands Act, 1948, authorise Government to commute crop share rent into cash rent and also to fix the rate of commutation. The alteration of crop share rent into cash and the commutation of crop share will very according to the kind of theland and also the areas. An ad hoc provision that such commutation should be 3 to 5 times the assessment if inserted in the Act itself would be open to challenge on the ground that it is arbitrary andopposed to Article 19 ofthe Constitution. Section 8 itself gives wide powers to Government and suggests that Government will arrive at a decision in the matter after due inquiry. The provision as it stands was challenged in the High Court in the applications of writs which were filed by the Thakore of Kerwada and other landholders.

Those applications have been dismissed by the High Court, although in some of theapplications appeals are filed to the Supreme Court and are pending. Section 8, therefore, carries out in effect the object which H.M.(R.D.) has inview At the same time the definition of 'rent' shouldbeamended to provide that subject to the provisions of section 8, the rent will not be in kind.

Clause 3. - This is consequential to the amendmentmade by clause 2 in the definition of 'rent'.

Clause 4. - Government has already decided that a tenant of agricultural lands should have power to mortgage his interest in theland for tagai advances. The need for such a provision was keenly felt during the recent Gujarat famine. Clause 4 gives effect to this decision

Clause 5. - In clause 3 of his minute H.M. (R.D.) proposes that ~~it~~ non-protected tenants who are guaranteed tenancy for 10 years should be given thestatus of a protected tenant. Under the present Act, so far as the State proper is concerned, the protected tenants are of four kinds :-

(1) Those who were on the land for six years on 1 January 1938.

(2) Those who were on the land for six years on 1 January 1945.

(3) Those who were on the land on 8th November 1947 but who were not declared to be non-protected tenants on an application made by the landlord.

(4) Those who were on the land for a period not less than six years on 1st April 1937 but who were wrongfully ejected.

In merged States areas different dates were prescribed for being entitled to the rights of protected tenants according to the date on which the area was merged in the State.

Section 5 of the Bombay Tenancy & Agricultural Lands Act provides that the tenancy of any land shall not be for aperiod less than 10 years. Tenants who would fall under this category would be other than those who do not fall in the four categories mentioned above. But even in the case of these tenants, sub-section (2) of section 5 gave them protection from being evicted except on the ground mentioned in section 14. Section 15 also allows such tenants to be entitled to continue in possession for another ten years if the landlord permitted them to hold over. The distinction between the periodical tenants and protected tenants has been maintained on the Statute Book since 1939 when the first Bombay Tenancy Act, 1939, was passed. In 1939, persons

who were in continuous possession of the land for six years from 1932-1938 were made protected tenants. In 1946 those who were on the land for six years from 1939 to 1945 were added to the category of protected tenants. When section 3A was added to the Act of 1939 those who were on the land in 1947 were also made protected tenants. But opportunity was given to the landlord to have him declared not to be protected tenant. Following the principle followed in 1947, it may be provided that those who are on the land on the expiry of one year after this amending Act comes into force shall be deemed to be protected tenants notwithstanding the fact that the tenancy was for a fixed period, if the landlord does not take steps to obtain a declaration to the contrary. This provision will be in consonance with the provisions of section 3A inserted in the Bombay Tenancy Act 1947. It has stood the challenge in Courts and has not been declared inconsistent with article 19(1)(f) of the Constitution, as imposing unreasonable restriction on the rights of a

person to hold, acquire and dispose of his property. Clause 5 of the Bill which purports to amend section 31 of the Bombay Tenancy and Agricultural Lands Act, 1948, carries out this purpose. Otherwise a provision to provide that all periodical tenants would be protected tenants without the payment of any compensation to the landlord would be held to be contrary to article 19(1)(f) of the Constitution.

Clause 6.- In clause (4) of H.D.(R.D.)'s minute it is suggested that the protected tenant who desires to purchase the land should deposit with the Mamlatdar a sum equal to 10 or 20 times the assessment, instead of moving the Tribunal to fix the reasonable price. This provision amounts to a compulsory transfer of the ownership of land from the landlord to the tenant. The provision was challenged in the High Court, but was defended on the ground that the transfer of the ownership was to take place on payment of what the Tribunal would assess to be the reasonable price. The possession is not an acquisition for a public purpose in which case the Legislature has a wider latitude to fix the amount of compensation or the principles of compensation. The Supreme Court has held that in such a case all that is necessary is that the possession should not be a fraud on the Constitution or the compensation

should be illusory. In a provision like section 32 which provides for the compulsory transfer of A's land to B, it would be held that such transfer through justified in the circumstances of the case must provide for adequate or reasonable compensation (see Subbodh Gopal v. Beharilal 55 C.W.N. 433). Article 19(1)(f) of the Constitution will apply and the Court will have the power to consider whether the concideration or compensation provided for the transfer is reasonable or adequate. In the various merged areas no law similar to the Bombay Land Revenue Code was in force and there was no regular method of settlement. The Government itself is considering the levy of surcharge on land revenue for the reason that there has been no revision of settlements in various parts. In some State areas such as Baroda and other Gujerat States the rates of assessment are high compared with those in this State proper. Rent is three or two and half times the assessment and ordinarily it would have been a proper guide for assessing reasonable price. But at the present juncture Courts which have the final voice in the matter will not hold it is so. The Bombay State consists of the old Province proper and merged States.

Contd.

So far as the area of the old Provinces is concerned owing to the two Wars, and the periods of slump and inflation for nearly fifty years no revision settlement has been made in various areas. If the inquiry by the Tribunal into what is reasonable price is to be avoided, instead of basing the price on the amount of the assessment, it would be fair and reasonable to base it on the maximum rent which is provided by section 6 of the Act itself. The reasonable price should be in the case of unirrigated land 10 times the maximum rent and in the case of irrigated land 15 times the maximum rent. In view of the restrictions imposed on agricultural land regarding alienation and eviction of tenants the price so fixed will not be held by the Court to be unreasonable. As proposed by H.M.(R.D.) the protected tenant may be permitted to pay the price in instalments. But until the last of such instalments is made, his liability to pay the rent due should continue and should not be affected.

The view taken in R.D. office note in (para 4) is not correct.

Clause 7. In clause (1) of H.M.(R.D)'s minute, it is proposed that the provision in section 34 enabling a landlord to dispossess a protected tenant for his personal cultivation should be restricted. ~~It is proposed cultivation should be restricted.~~ It is proposed that no tenant should be evicted unless he has about 50 acres of land left with him for his own maintanance. Clause 7 carries out this proposal, The provision should be on the basis of clause (a) of sub-section (2) of section 34.

Clause 8.- This purports to omit the words "improving the economic and social conditions of peasants or" from section 44 as a reason for which the management of an estate can be taken. A doubt has been raised whether it would be within the competance of the State Government to deprive a person of the possession of his Estate for improving the economic and social conditions of the peasants, without acquiring the Estate and paying full compensation. The words should be deleted. R.D.Office agrees with the view.

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Clauses 9 and 10.- These clauses make it clear that the vesting of the Estate during the management is for the purpose of management and not absolutely. The clauses clear up the doubt raised. R.D. agrees.

Clauses 11, 12 and 13.- These are consequential amendments.

Clause 14. - In Para 9 of R.D.office note it is proposed that the Collector should have power to transfer appeals to Assistant and Deputy Collectors and vice versa. This clause purports to carry out that object.

R.D. proposes that the Collector should have power to transfer appeals to his Personal Assistant. The P.A. to the Collector is not a recognized statutorily officer under the Land Revenue Code. As P.A. is always a Prant Officer, i.e. an Assistant or Deputy Collector and is so appointed for the whole district, there will be no objection to the Collector's transferring such appeals to him in his capacity as Assistant and Deputy Collector.

Clause 15.- In para 7(ii) of R.D.Office note it is decided to amend section 88 of the Bombay Tenency & Agricultural Lands Act, 1948, to provide how a survey number falling within two

miles distance in the urban areas should be treated. The explanation proposed to be inserted gives effect to that decision.

Para 8(i) of the R.D. Office note. In view of the Zamindari agreements entered into on the merger of the States certain 'Charkhed' lands are to be given to the Zamindars. The proposals of R.D. have not yet reached L.D. in any case, the matter is not quite relevant to the provisions which exist in the Bombay Tenency and Agricultural lands Act and will have to be separately dealth with.

Para 8(ii) of R.D.Office note. This relates to the appearance of pladers in inquiries and proceedings under the Bombay Tenancy and Agricultural Lands Act, There is no provision barring such appearance. Merely executive orders have been issued. But in view of the Bar Councila Act the bar on theadvocates enrolledin the High Court had to be lifted. The High Court has been already informed that Government not desire to under take any legislation in the matter pending the report of the Das Committee appointed by the Government of India. The Tenancy Act need not be amended for the purpose. If pleaders other than Advocates are to be permitted, the executive orders already

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issued will have to be modified.

Para 9(iii) of R.D.Office note. It is suggested that the Collector may be permitted to leased land for a period less than 10 years, particularly in the case of minors. This suggestions is not proper and is against the fundamental principle on which the Tenency Act is based. It is the policy of Government to give guarantee or security of tenure to tenants. For that purpose the system of protected tenancy is introduced andit is also laid down that no tenancy shall be for a period less than 10 years. In these circumstances, the proposal to permit the leasing of land granted even on new tenure for a period less than 10 years is unsound and should not be accepted.

If H.M. (R.D.) approves the draft, it will have to be submitted to H.M.(Law) before it is circulated to the Cabinet.

J.R.Dhurandhar. 11/6

R.D. papers with H.M's note submitted to H.M.R.D. A copy of this note and the draft bill also sent to Secy. R.D.

J.R.Dhurandhar

11/6.

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Legal Department.

As decided at the Cabinet meeting the draft Bill for the amendment fo the Bombay Tenancy and Agricultural Lands Act, 1948, has been revised. A statement of objects and reasons explaining various clauses of the Bill has also been prepared. Clause 7 relates to the amendment of section 32 of the Act which provides for the compulsory purchase of land by a protected tenant. The section as it stands provides that the price should be determined by the Tribunal i.e. by the Mamlatdar who exercises the powers of the Tribunal, An appeal lies to the CCollector against the Mamlatdar's decision and a second appeal and a revision application to the Bombay Revenue Tribunal. It would not be proper to interfere with the Special jurisdiction in all these cases by taking power to Government to fix the maximum price. But it was suggested at the Cabinet meeting that such power may be necessary for backward classes. Sub-clause (2) of clause 7 is, therefore, limited to cases where the protected tenant belongs to abackward class. Under clause (4) of article 15 of the Consti-

Contd.

tution such discrimination would be justified.

2. If the draft is approved, the orders of the Chief Minister may be obtained for the publication of the Bill.

J.R.Dhurandhar.

8/7.

Additional Secretary to Government.

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✗ Secy RD.

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8/7/52

Legal Department.

Section 34 provides for cases in which a landlord is entitled to determine the tenancy of a protected tenant. Sub-section (1) provides that a landlord can only do so, if he bonafide requires the land for any of thetwo purposes mentioned in the sub-section. Sub-section (2) then provides that he will not be entitled to exercise that right, if at thedate of thenotice he has been cultivating personally other land fifty acres or more in area. The first proviso which is retained in the sub-section provides that if the land cultivated by the landlord personally is less than 50 acres, the right of the land to terminate the tenancy and to take possession of theland shall be limited to such area as will besufficient to make up the area of 50 acres. This is a general right ofthe landlord. Butthe general right has been further made subject to the special conditions specified in the new sub-section (2A) Sub-sections (1) and (2A) have to be read together. If a case falls under sub-section (2A) a landlord cannot exercise his right to the full extent under sub-section (1). This is made clear by the opening words of sub-section (2A) which refer to his right to determine the tenancy, if he requires the land for any of

Contd.

the purposes mentioned in sub-section (1). As clauses (a) and (b) of sub-section (2) have to be read together, andif a case falls under clause (b), a landlord cannot exercise his right under the proviso to clause (a). Similarly sub-sections (2) and (2A) have to be read together and the conditions specified in sub-section (2) must be read as having been modified by those in sub-section (2A). This is an ordinary rule of of the interpretation of statutes andread in this light there is no conflict between the two sub-sections.

J.R.Dhurandhar.

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o.c.

Additional Secretary to Government.

U.R.to R.D., No. 16469/B , dated the 7th October 1952.

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3/7.

Section 34 of the Bombay Tenancy and Agricultural Lands Act, 1948, as it will read after it is amended by Government amendments.

Landlord's right to determine protected tenancy.

34. (1) Nothwithstanding anything contained in section 14, a landlord may terminate the tenancy of a protected tenant by giving him one year's notice in writing, stating therein the reasons for such termination, if the landlord bona fide requires the land for any of thefollowing purposes, namely :-

(1) for cultivating personally, or

(2) for any non-agricultural use for his own purpose.

(2) nothing in sub-section (1) shall entitle the landlord, -

(a) to terminate the tenancy of a protected tenant, if thelandlord at the date on which the notice is given or at the date on which the notice expires has been cultivating persoanlly other land fifty acres or more in area.

Provided that if the land which is being cultivated personally is less than fifty acres, the right of the landlord to terminate the tenancy of the protected tenant and to take possession of the land leased

to him shall be limited to such area as will be sufficient to make up the area of the land which he has been cultivating personally to the extent of fifty acres;

(b) to terminate the tenancy of a protected tenant if such tenant has become a member of a co-operative farming society so long as such tenant remains such member; or

(c) to terminate thetenancy of aprotected tenant on the ground that the landlord requires the land for cultivating it personally, unless the income by the ccultivation of such land will be the main source of the income of the landlord for his maintenance.

(2A) If the ~~x~~ landlord bona fide requires the land for any of the purposes specified in sub-section (1), then his right to terminate the tenancy shall be subject to the following conditions, namely:-

(1) The land held by theprotected tenant lease stands in the record of rights in the name of thelandlord on the first day of January 1952 as the superior holder.

(2) If the land held by the landlord is in area equal to the agricultural holding or less, the landlord shall be entitled

to terminate the tenancy of the protected tenant in respect of the entire area of such land.

(3) If the land held by the landlord is more than the agricultural holding in area, the right of the landlord to terminate the tenancy of the protected tenant shall be limited to an area which shall, after such termination leave with the tenant half the area of the land leased.

(4) The tenancy in respect of the land left with the protected tenant after termination under this section shall not at any time be liable to be terminated on the ground that the landlord bona fide requires the said land for any of the purposes specified in sub-section (1).

Explanation. - The 'agricultural holding' shall mean sixteen acres of jirayat land or four acres of irrigated or paddy or rice land, or lands greater or less in area than the aforesaid areas in the same proportion:

Provided that the State Government may by general or special order direct that the limits of the agricultural holding specified in this section shall for any local area or

tract be varied, if the State Government is satisfied that such variation is necessary or expedient in the interest of either the landlord or the tenant or for ensuring the full and efficient use of land for agriculture. "

(3) If under sub-section (2) or (2A) the tenancy of a protected tenant is terminated of a part of a landleased to him, the rent shall be apportioned in the prescribed manner in proportion to the area of the land left with the protected tenant.

(4) Nothing in clause (a) of sub-section (2) or in sub-section (2A) shall authorize the termination of the tenancy in such a manner as will result in contravention of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, or in making any part of the land leased a fragment within the meaning of the said Act.

Bom. LXII of 1947.

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3/7.

No. 15902/B
Legal Department,
Bombay Castle(Bombay No. 1), 26th Sept. 1952.

From

Shri P.M.Lad, I.C.S,
Secretary to the government of Bombay,
Legal Department.

To

The Secretary to the Governor of Bombay,

Subject:- The Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to the Governor the authentic copy of the Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 21st August 1952 and 23rd August 1952, respectively. The amendments made by the legislative Council were agreed to by the Legislative Assembly on the 23rd August 1952.

2. The subject-matter of the Bill falls under entries 14, 18 and 30 in List II and entry 5 in List III in the Seventh Schedule to the Constitution of India. As clause 6 of the Bill is repugnant to the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, in so far as it relates to a matter enumerated in entry 5 in

the Concurrent Legislative List, it is necessary to reserve the Bill for the condideration of the President with reference to article 254(2) of the Constitution of India.

3. I also forward herewith six copies of each of the

	items
1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	Nos 1 and 2
2. Bill as pead for the third time and passed by Bombay Legislative Council.	and two copies
3. Extracts from the proceedings of the Bombay Legislative Assembly, dated the 19th, 20th 21st and 23rd August 1952 and of the Bombay Legislative Council, dated the 22nd and 23rd August 1952.	of item No. 3 of

the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

P.M.Lad.

O.C.

Secretary to Government.

Copy forwarded with compliments to the Secretary to the Government of Bombay, Revenue Department.

MM

3/7

No. G.S.- 3063.

FROM

THE SECRETARY TO THE GONERNOR ~~OF~~ OF BOMBAY

To.

The Secretary to the Bombay Legislature
Department, Council Hall, Bombay.

Raj Bhavan.

~~BOMBAY.~~ Octr. 3, 52.

Poona 7;

Subject: The Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952.

Sir,

Referring to the Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on August 21 and 23, 1952, respectively, and the amendments made by the Legislative Council in respect of which were agreed to by the legislative Assembly on August 23, 1952, I am directed to state, for the information of the Speaker and the Chairman that as clause 6 of the Bill is repugnant to the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, in so far as it relates to a matter enumerated in entry 5 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President vide article 254(2) of the Constitution of

India. The Governor has accordingly been pleased, under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

S.B.Kulkarni.

Secretary to the Governor
of Bombay.

.....

No. G.S.- 3064
Office of the Secretary to the Governor,
Raj.Bhavan, Ganeshkhind, Poona 7;
October 3, 1952.

Copy forwarded with compliments for information to the Additional Secretary to Government, Legal Department, with reference to his letter No. 15902/B, dated September 26, 1952.

S.B.Kulkarni.

Secretary to the Governor.

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3/7.

No. GS. 88.

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Additional Secretary to Government,
Legal Department, Bombay 1.

Subject:- The Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952.

RAJ BHAVAN,

BOMBAY, 6.

January 9, 1953.

Sir,

In continuation of this office endorsement No. GS-3996 dated December 29, 1952, on the above mentioned subject, I am directed to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952, on January 6,. 1953.

Yours faithfully,

for Secretary to the Governor

MM

3/7.

No. GS- 192

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Additional Secretary to Government,
Legal Department, Bombay 1-

Subject:- The Bombay Tenancy & Agricultural Lands (Amendment) Bill, 1952

Raj Bhavan,

BOMBAY.
January 16 1953.

Sir,

In continuation of this office letter No. GS. 88 dated January 9, 1953 on the above mentioned subject, I am directed to froward herewith the authentic copy of the Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952, with the President's assent signified thereon.

2. In forwarding this Bill, the Government of India have also forwarded copies of notes recorded in the Ministry of Food and Agriculture and the Planning Commission for the consideration of Government. Copies of these notes are enclosed herewith.

Yours faithfully,

Secretary to the Governor

MM 3/7.

ACTS.

Publication of the
Bombay Tenancy and Agricultural Lands
(Amendment) Act, 1952.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 731/B
Bombay Castle, 12th January 1953.

Letter to the Secretary to the Governor, No.15902/B, dated the 26th September 1952.

Letter from the Secretary to the Governor, No.G.S.88, dated the 9th January 1953.

"In continuation of this office endorsement No. GS-3996 dated December 29, 1952, on the above mentioned subject, I am directed to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Tenancy and Agricultural Lands (Amendment) Bill, 1952, on January 6, 1953"

RESOLUTION: The law should be published as Bombay Act No. XXXIII of 1952 in the Bombay Government Gazette dated the 12th January 1953.

2. The Act should be translated into Marathi, Gujarathi, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

P.T.O.

By order and in the name of the Governor
of Bombay,

S.W.Dhurandhar,

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Revenue Department). etc.

MM

3/7.

REGISTERED No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY

FRIDAY, 18TH JULY 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XXXI OF 1952.

A Bill to amend the Bombay Tenancy and Agricultural Lands Act, 1948.

Bom. LXVII of 1948. WHEREAS it is expedient to amend the Bombay Tenancy and Agricultural Lands Act, 1948, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952.

Amendment of section 5 of Bom. LXVII of 1948. Bom. LXVII of 1948. 2. For section 5 of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as the 'said Act'), the following shall be substituted, namely :—

Period of tenancy. "5. (1) No tenancy of any land shall be for a period of less than ten years :

Provided that at the end of the said period and thereafter at the end of each period of ten years in succession, the tenancy shall, subject to the provisions of sub-sections (2) and (3), be deemed to be renewed for a further period of ten years on the same terms and conditions.

(2) The landlord may, by giving the tenant three months' notice in writing before the end of each of the periods referred to in sub-section (1), terminate the tenancy, with effect from the beginning of each of the said period, if he *bona fide* requires the land for any of the purposes specified in sub-section (1) of section 34, but subject to the provisions of sub-section (2) of the said section, as if such tenant was a protected tenant.

(3) Notwithstanding anything contained in sub-section (1)—

(a) every tenancy shall, subject to the provisions of section 25, be liable to be terminated at any time on any of the grounds mentioned in section 14; and

(b) a tenant may terminate the tenancy at any time by surrendering his interest as a tenant in favour of the landlord."

Amendment of section 14 of Bom. LXVII of 1948.

3. In section 14 of the said Act,—

(1) in sub-section (1), the following proviso shall be added at the end, namely :—

" Provided that no tenancy of any land held by a tenant shall be terminated on any of the grounds mentioned in this sub-section, unless the landlord gives three months' notice in writing intimating the tenant his decision to terminate the tenancy and the ground for such termination." ;

(2) sub-section (2) shall be deleted.

Deletion of section 15 of Bom. LXVII of 1948.

4. Section 15 of the said Act shall be deleted.

Amendment of section 25 of Bom. LXVII of 1948.

5. Section 25 of the said Act shall be renumbered as sub-section (1) of the said section, and in the sub-section so renumbered,—

(1) after the words " as if the tenancy had not been terminated " the following proviso shall be added, namely :—

" Provided that if the Mamlatdar is satisfied that in consequence of total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Mamlatdar may, for reasons to be recorded in writing, direct that the arrears of rent together with the costs of the proceedings shall be paid within one year from the date of the order and that if before the expiry of the said period, the tenant fails to pay the said arrears of rent and costs, the tenancy shall be deemed to be terminated and the tenant shall be liable to be evicted ; " ;

(2) for the words " Provided that nothing in this section " the brackets, figure and words " (2) Nothing in this section " shall be substituted.

Amendment of section 27 of Bom. LXVII of 1948.

6. To section 27 of the said Act, the following sub-section shall be added, namely :—

" (3) Notwithstanding anything contained in sub-section (1), it shall also be lawful for a tenant to mortgage, or create a charge on, his interest in the land in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883, the Agriculturists' Loans Act, 1884, or the Bombay Non-Agriculturists' Loans Act, 1928, and without prejudice to any other remedy open to the State Government in the event of his making default in payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government to cause his interest in the land to be attached and sold and the proceeds to be applied in payment of such loan.". XIX of 1883. XII of 1884. Bom. III of 1928.

Amendment of section 32 of Bom. LXVII of 1948.

7. In section 32 of the said Act,—

(*1*) in sub-section (*4*), after the words "making an inquiry, shall" the words, brackets, figure and letter "subject to the provisions of sub-section (*4A*)" shall be inserted, and after the words "within the prescribed period" the following shall be added, namely :—

"The protected tenant shall deposit the amount of the price with the Mamlatdar—

(*a*) either in a lump sum, or

(*b*) in such annual instalments not exceeding six and on or before such dates as may be fixed by the Mamlatdar in each case. The Mamlatdar shall thereupon cause a written notice of the deposit to be served on the landlord.";

(*2*) after sub-section (*4*), the following shall be inserted, namely :—

"(*4A*) Notwithstanding anything contained in sub-section (*4*), the State Government may, by general or special order, determine the rate of the amount of the maximum price for the purchase of any kind of land by tenants who belong to classes declared by the State Government as socially and educationally backward classes or who are the members of the Scheduled Castes or the Scheduled Tribes. In determining such rate, the State Government shall take into consideration the rent payable for the land and other factors specified in sub-section (*4*) of section 66.";

(*3*) in sub-section (*5*),—

(*a*) for the words "On such deposit being made, the Tribunal" the following shall be substituted, namely :—

"If the deposit of the entire amount is made in a lump sum, on the deposit of such sum or, if the deposit is made by instalments, on the deposit of the last of such instalments, the Mamlatdar"; and

(*b*) the following proviso shall be added at the end, namely :—

"Provided that until the deposit of the entire amount is made in a lump sum or until the deposit of the last of the instalments is made, the liability of the protected tenant to pay the rent due in respect of the land shall continue and shall not be affected.";

(*4*) in sub-section (*6*), the proviso shall be deleted;

(*5*) in clause (*b*) of sub-section (*7*), after the words "to be purchased" the words "or the amount of the price or any instalment thereof to be deposited" shall be added.

Amendment of section 34 of Bom. LXVII of 1948.

8. In section 34 of the said Act,—

(*1*) in sub-section (*2*), in clause (*a*), the second proviso shall be deleted;

(*2*) after clause (*b*) the following shall be added, namely :—

"or

(*c*) to terminate the tenancy of a protected tenant on the ground that the landlord requires the land for cultivating it personally, unless the income by the cultivation of such land will be the main source of the income of the landlord for his maintenance.";

(3) after sub-section (2), the following new sub-section shall be inserted, namely :—

"(2A) If the landlord *bona fide* requires the land for any of the purposes specified in sub-section (1) then his right to terminate the tenancy of the protected tenant shall be limited to an area which shall, after such termination, leave with the tenant half the area of the land leased by him or fifteen acres, whichever is less :

Provided that if the protected tenant holds any land as an owner, the area of the land to be left with him after the termination of the tenancy shall be such area as including the area held by him as an owner, will be sufficient to make up an area of fifteen acres." ;

(4) in sub-section (3), for the words, brackets and figure "If under sub-section (2)" the words, brackets, figures and letter "If under sub-section (2) or (2A)" shall be substituted ;

(5) after sub-section (3), the following shall be added, namely :—

"(4) Nothing in clause (a) of sub-section (2) or in sub-section (2A) shall authorize the termination of the tenancy in such a manner as will result in contravention of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, or in making any part of the land leased a fragment within the meaning of the said Act.". Bom. LXII of 1947.

Deletion of section 35 of Bom. LXVII of 1948.

9. Section 35 of the said Act shall be deleted.

Amendment of section 36 of Bom. LXVII of 1948.

10. In section 36 of the said Act,—

(1) in sub-section (1), the figures and the word "32 or" shall be deleted, and for the words "and two hundred acres specified in either of the said sections" the words and figures "specified in section 34" shall be substituted ;

(2) in sub-section (2), for the words "and two hundred acres specified in the said sections" the words "specified in the said section" shall be substituted.

Amendment of section 44 of Bom. LXVII of 1948.

11. In section 44 of the said Act, for the words "for the purpose of improving the economic and social conditions of peasants or" the words "for the said purpose or for the purpose of" shall be substituted.

Amendment of section 45 of Bom. LXVII of 1948.

12. Section 45 of the said Act shall be renumbered as sub-section (1) of the said section and after sub-section (1) so renumbered, the following shall be added, namely :—

"(2) Notwithstanding the vesting of the estate in the State Government under sub-section (1), the tenant holding the lands on lease comprised in the estate shall, save as otherwise provided in this Chapter, continue to have the same rights and shall be subject to the same obligations, as they have or are subject under the preceding Chapters in respect of the lands held by them on lease."

Amendment of section 58 of Bom. LXVII of 1948.

13. In section 58 of the said Act, in the second proviso, after the words "for the benefit of the estate" the words and figures "or unless such sale is in favour of a protected tenant under section 32" shall be inserted.

14. In section 74 of the said Act, in sub-section (*1*), after clause (*m*), the following clause shall be inserted, namely :— Amendment of section 74 of Bom. LXVII of 1948.

"(*mm*) an order under section 31,"

15. For section 74A of the said Act, the following shall be substituted, namely :— Amendment of section 74A of Bom. LXVII of 1948.

"*74A.* The Collector may, after due notice to the parties, by order in writing,—

(*a*) transfer any appeal pending before him or before any Assistant or Deputy Collector subordinate to him to any Assistant or Deputy Collector specified in such order, performing the duties and exercising the powers of a Collector and upon such transfer the Assistant Collector or the Deputy Collector, as the case may be, shall have power to hear and decide the appeal as if it was originally filed to him : or Powers of Collector to transfer and withdraw appeals.

(*b*) withdraw any appeal pending before any Assistant or Deputy Collector and himself hear and decide the same."

16. In section 88 of the said Act,— Amendment of section 88 of Bom. LXVII of 1948.

(*1*) in sub-section (*1*), the following proviso shall be added, namely :—

"Provided that nothing in this sub-section shall apply to any lands forming part of an estate taken under management by and vesting in the State Government under Chapter IV." ;

(*2*) after sub-section (*2*), the following *Explanation* shall be added at the end, namely :—

"*Explanation.*—For the purpose of clause (*c*) of sub-section (*1*), a survey number or a sub-division of a survey number, which falls partly within the distance of two miles referred to in the said clause and partly outside such distance, shall be deemed to be included within such distance, if the portion falling within such distance is equal to or exceeds half the area of such survey number or sub-division.".

STATEMENT OF OBJECTS AND REASONS.

The Bombay Tenancy and Agricultural Lands Act was passed in 1948. During the last four years for which the Act has been in operation, it is found that the Act requires modification on some points in order that the objects for which the Act was enacted should be properly and fully carried out and the persons for whom it was intended should derive proper benefit. The principal modifications to be made are set out in the following notes on clauses :—

Clause 2.—This clause purports to amend section 5. Section 5 provides that no tenancy shall be for less than 10 years. This clause provides that such tenancy will be

renewed for further period of 10 years in succession. It is, however, open to the landlord to terminate the tenancy at the end of each period if he requires it for personal cultivation.

Clause 3.—It is made clear in this clause that the landlord must give 3 months' notice, if the tenancy is liable to termination on any of the grounds mentioned in section 14.

Clause 4.—As the tenancy is to be renewable at the end of every ten years, section 15 which relates to holding over is unnecessary and should be deleted.

Clause 5.—In this clause power is given to the Mamlatdar before whom the application for the eviction of the tenant is made on the ground of the non-payment of rent, to give to the tenant one year to pay the arrears of rent, if the failure of the tenant is due to the failure of crops or similar calamity.

Clause 6.—This clause enables a tenant to get tagavi loans by the mortgage of his interest in the land to Government.

Clause 7.—This clause provides that the purchase money may be paid by a protected tenant in a lump sum or by instalments not exceeding six. It also provides that in the case of backward classes, scheduled classes and scheduled tribes, it should be open to Government to fix the maximum rate for the purchase of various kinds of land.

Clause 8.—It has come to the notice of Government that the concession of 200 acres given in favour of undivided Hindu families is being abused. In order to acquire as much land as possible on the ground of personal cultivation, landlords resort to the device of showing that the land has been divided or partitioned amongst various members of their families. It is, therefore, desirable to do away with the concession of a unit of 200 acres which was made originally in favour of undivided Hindu families. It is also provided that if a landlord requires the land for personal cultivation, the land left with the tenant including his own must not be less than 15 acres or half the area whichever is less. A provision has also been made that a landlord requiring the land for personal cultivation must show that the income derived from such land shall be his main source of income.

Clauses 9 and 10.—The amendments made by these clauses are consequential on the amendments made in section 34 by the previous clause.

Clause 11.—The reference in section 44 to 'the improvement of economic and social conditions of peasants' is not quite relevant to the scheme of taking over estates under Government management and is therefore omitted.

Clauses 12 and 13.—These clauses make it clear that during the management of an estate under section 44, the tenants are entitled to exercise their rights under the preceding Chapters.

Clause 15.—This clause empowers the Collector to transfer appeals under this Act to his Assistant or Deputy. He can withdraw any appeal pending before his subordinates.

Clause 16.—This clause provides that when a survey number is partly within an urban area excluded from the purview of this Act under section 88 and partly outside, if the area within the urban area is more than half, it shall be treated as falling within that area and *vice versa*.

Dated the 18th July 1952.

(Signed) BHAUSAHEB HIRAY.

By order of the Governor of Bombay,

S. L. CHAUDHARI,
Deputy Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 18th July 1952.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XXXI OF 1952

A Bill to amend the Bombay Tenancy and Agricultural Lands Act, 1948.

(As read for the third time and passed by the Legislative Assembly on the 21st August 1952.)

Bom. LXVII of 1948.

WHEREAS it is expedient to amend the Bombay Tenancy and Agricultural Lands Act, 1948, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952.

Bom. LXVII of 1948.

Amendment of section 5 of Bom. LXVII of 1948.

2. For section 5 of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as the 'said Act'), the following shall be substituted, namely:—

Period of tenancy.

"5. (*1*) No tenancy of any land shall be for a period of less than ten years:

Provided that at the end of the said period and thereafter at the end of each period of ten years in succession, the tenancy shall, subject to the provisions of sub-sections (*2*) and (*3*), be deemed to be renewed for a further period of ten years on the same terms and conditions notwithstanding any agreement to the contrary.

(*2*) The landlord may, by giving the tenant one year's notice in writing before the end of each of the periods referred to in sub-section (*1*), terminate the tenancy, with effect from the thirty-first day of March in the last year of each of the said period, if he *bona fide* requires the land for any of the purposes specified in sub-section (*1*) of section 34, but subject to the provisions of sub-sections (*2*) and (*2A*) of the said section, as if such tenant was a protected tenant.

(3) Notwithstanding anything contained in sub-section (*1*)—

(*a*) every tenancy shall, subject to the provisions of sections 24 and 25, be liable to be terminated at any time on any of the grounds mentioned in section 14; and

(*b*) a tenant may terminate the tenancy at any time by surrendering his interest as a tenant in favour of the landlord:

Provided that such surrender shall be in writing and shall be verified before the Mamlatdar in the prescribed manner."

Amendment of section 14 of Bom. LXVII of 1948.

3. In section 14 of the said Act,—

(*1*) in sub-section (*1*), in clause (*c*), after the words "the land" the words and figures "in contravention of section 27," shall be inserted, and the following proviso shall be added at the end, namely:—

"Provided that no tenancy of any land held by a tenant shall be terminated on any of the grounds mentioned in this sub-section, unless the landlord gives three months' notice in writing intimating the tenant his decision to terminate the tenancy and the ground for such termination.";

(*2*) sub-section (*2*) shall be deleted.

Deletion of section 15 of Bom. LXVII of 1948.

4. Section 15 of the said Act shall be deleted.

Amendment of section 25 of Bom. LXVII of 1948.

5. Section 25 of the said Act shall be renumbered as sub-section (*1*) of the said section, and in the sub-section so renumbered,—

(*1*) after the words "as if the tenancy had not been terminated" the following proviso shall be added, namely:—

"Provided that if the Mamlatdar is satisfied that in consequence of total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Mamlatdar may, for reasons to be recorded in writing, direct that the arrears of rent together with the costs of the proceedings if awarded, shall be paid within one year from the date of the order and that if before the expiry of the said period, the tenant fails to pay the said arrears of rent and costs, the tenancy shall be deemed to be terminated and the tenant shall be liable to be evicted;";

(*2*) for the words "Provided that nothing in this section" the brackets, figure and words "(*2*) Nothing in this section" shall be substituted.

6. In section 27 of the said Act, Amendment of section 27 of Bom. LXVII of 1948.

(*1*) after the proviso to sub-section (*1*) add the following further proviso, namely :—

'Provided further that if the tenant dies, leaving sons or sons of predeceased sons more than one in number it shall be lawful for such sons and sons of predeceased sons (hereinafter called 'sharers'), notwithstanding anything contained in section 40, to partition and sub-divide the land leased subject to the following conditions :—

(*a*) Each sharer shall hold his share as a separate tenant.

(*b*) The rent payable in respect of the land leased shall be apportioned among sharers, as the case may be, according to the share allotted to them.

(*c*) The area allotted to each sharer shall not be less than the unit which the State Government may, by general or special order, specify in this behalf having regard to the production capacity and other circumstances relevant to the full and efficient use of the land for agriculture.

(*d*) If any question arises regarding the apportionment of the rent payable by the sharers it shall be decided by the Mamlatdar whose decision shall be final.';

(*2*) after sub-section (*2*), the following sub-section shall be added, namely :—

'(*3*) Notwithstanding anything contained in sub-section (*1*), it shall also be lawful for a tenant to mortgage, or create a charge on, his interest in the land in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883, the Agriculturists' Loans Act, 1884, or the Bombay Non-Agriculturists' Loans Act, 1928, and without prejudice to any other remedy open to the State Government in the event of his making default in payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government to cause his interest in the land to be attached and sold and the proceeds to be applied in payment of such loan.'

XIX of 1883. XII of 1884. Bom. III of 1928.

7. In section 32 of the said Act,— Amendment of section 32 of Bom. LXVII of 1948.

(*1*) in sub-section (*4*), after the words "making an inquiry, shall" the words, brackets, figure and letter "subject to the provisions of sub-section (*4A*)" shall be

inserted, and after the words "within the prescribed period" the following shall be added, namely :—

"The protected tenant shall deposit the amount of the price with the Tribunal—

(*a*) either in a lump sum, or

(*b*) in such instalments not exceeding ten and at such intervals during a period not exceeding fifteen years and on or before such dates as may be fixed by the Tribunal in each case. The Tribunal shall thereupon cause a written notice of the deposit to be served on the landlord.";

(*2*) after sub-section (*4*), the following shall be inserted, namely:—

"(*4A*) Notwithstanding anything contained in sub-section (*4*), the State Government may, by general or special order, determine the rate of the amount of the maximum price for the purchase of any kind of land by tenants who belong to classes declared by the State Government as socially and educationally backward classes or who are the members of the Scheduled Castes or the Scheduled Tribes. In determining such rate, the State Government shall take into consideration the rent payable for the land and other factors specified in sub-section (*4*) of section 66.";

(*3*) in sub-section (*5*),—

(*a*) (*i*) for the words "On such deposit being made" the words "On the deposit of the entire amount of the price" shall be substituted;

(*ii*) after the words "interested therein" the following shall be inserted, namely:—

"The Tribunal shall also direct that the entire amount of the price deposited shall be paid to the landlord. If the protected tenant fails to pay the entire amount of the price within the period fixed under sub-section (*4*) the purchase shall not be effective and the amount deposited by the protected tenant shall be refunded to him." and

(*b*) the following proviso shall be added at the end, namely:—

"Provided that until the deposit of the entire amount is made in a lump sum or until the deposit of the last of the instalments is made, the liability of the protected tenant to pay the rent due in respect of the land shall continue and shall not be affected.";

(*4*) in sub-section (*6*), the proviso shall be deleted;

(5) in clause (b) of sub-section (7), after the words to be purchased" the words "or the amount of the price or any instalment thereof to be deposited" shall be added.

Amendment of section 34 of Bom. LXVII of 1948.

8. In section 34 of the said Act,—

(1) in sub-section (2), in clause (a), the second proviso shall be deleted;

(2) after clause (b) the following shall be added, namely:—

"or

(c) to terminate the tenancy of a protected tenant on the ground that the landlord requires the land for cultivating it personally, unless the income by the cultivation of such land will be the main source of the income of the landlord for his maintenance.";

(3) after sub-section (2), the following new sub-section shall be inserted, namely:—

"(2-A) If the landlord *bona fide* requires the land for any of the purposes specified in sub-section (1) then his right to terminate the tenancy shall be subject to the following conditions, namely:—

(1) The land held by the protected tenant on lease stands in the record of rights in the name of the landlord on the first day of January 1952 as the superior holder.

(2) If the land held by the landlord is in area equal to the agricultural holding or less, the landlord shall be entitled to terminate the tenancy of the protected tenant in respect of the entire area of such land.

(3) If the land held by the landlord is more than the agricultural holding in area, the right of the landlord to terminate the tenancy of the protected tenant shall be limited to an area which shall, after such termination, leave with the tenant half the area of the land leased.

(4) The tenancy in respect of the land left with the protected tenant after termination under this section shall not at any time be liable to be terminated on the ground that the landlord *bona fide* requires the said land for any of the purposes specified in sub-section (1).

Explanation.—The 'agricultural holding' shall mean sixteen acres of jirayat land or four acres of irrigated or paddy or rice land, or lands greater or less in area than the aforesaid areas in the same proportion;

Provided that the State Government may by general or special order direct that the limits of the agricultural holding specified in this section shall for any local area or tract be varied, if the State Government is satisfied, that such variation is necessary or expedient in the interest of either the landlord or the tenant or for ensuring the full and efficient use of land for agriculture."

(*4*) in sub-section (*3*), for the words, brackets and figure "If under sub-section (*2*)" the words, brackets, figures and letter "If under sub-section (*2*) or (*2A*)" shall be substituted;

(*5*) after sub-section (*3*), the following shall be added, namely:—

"(*4*) Nothing in clause (*a*) of sub-section (*2*) or in sub-section (*2A*) shall authorize the termination of the tenancy in such a manner as will result in contravention of the Provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act., 1947, or in making any part of the land leased a fragment within the meaning of the said Act.". Bom. LXII of 1947.

Deletion of section 35 of Bom. LXVII of 1948.

9. Section 35 of the said Act shall be deleted.

Amendment of section 36 of Bom. LXVII of 1948.

10. In section 36 of the said Act,—

(*1*) in sub-section (*1*), the figures and the word "32 or" shall be deleted, and for the words "and two hundred acres specified in either of the said sections" the words and figures "specified in section 34" shall be substituted;

(*2*) in sub-section (*2*), for the words "and two hundred acres specified in the said sections" the words "specified in the said section" shall be substituted.

Amendment of section 44 of Bom. LXVII of 1948.

11. In section 44 of the said Act, for the words "for the purpose of improving the economic and social conditions of peasants or" the words "for the said purpose or for the purpose of" shall be substituted.

Amendment of section 45 of Bom. LXVII of 1948.

12. Section 45 of the said Act shall be renumbered as sub-section (*1*) of the said section and after sub-section (*1*) so renumbered, the following shall be added, namely:—

"(*2*) Notwithstanding the vesting of the estate in the State Government under sub-section (*1*), the tenant holding the lands on lease comprised in the estate shall, save as otherwise provided in this Chapter, continue to have the same rights and shall be subject to the same obligations, as they have or are subject under the preceding Chapters in respect of the lands held by them on lease."

13. In section 58 of the said Act, in the second proviso, after the words "for the benefit of the estate" the words and figures "or unless such sale is in favour of a protected tenant under section 32" shall be inserted. Amendment of section 58 of Bom. LXVII of 1948.

14. In section 74 of the said Act, in sub-section (*1*), after clause (*m*), the following clause shall be inserted, namely:— Amendment of section 74 of Bom. LXVII of 1948.

"(*mm*) an order under section 31,"

15. For section 74A of the said Act, the following shall be substituted, namely:— Amendment of section 74A of Bom. LXVII of 1948.

"74A. The Collector may, after due notice to the parties, by order in writing,—

(*a*) transfer any appeal pending before him or before any Assistant or Deputy Collector subordinate to him to any Assistant or Deputy Collector specified in such order, performing the duties and exercising the powers of a Collector and upon such transfer the Assistant Collector or the Deputy Collector, as the case may be, shall have power to hear and decide the appeal as if it was originally filed to him; or Powers of Collector to transfer and withdraw appeals.

(*b*) withdraw any appeal pending before any Assistant or Deputy Collector and himself hear and decide the same."

Bom. LIX of 1949. Bom. XVIII of 1925.

16. In section 88 of the said Act,—

(*1*) in sub-section (*1*),— Amendment of section 88 of Bom. LXVII of 1948.

(*a*) for clause (*c*), the following shall be substituted, namely:—

"(*c*) to any area within the limits of Greater Bombay, within the limits of the municipal corporations constituted under the Bombay Provincial Municipal Corporations Act, 1949, within the limits of the municipal boroughs constituted under the Bombay Municipal Boroughs Act, 1925, and within the limits of any cantonment, or";

(*b*) the following proviso shall be added, namely:—

"Provided that nothing in this sub-section shall apply to any lands forming part of an estate taken under management by and vesting in the State Government under Chapter IV, or to the lands taken under management temporarily by the Civil, Revenue or Criminal Courts by themselves or through the receivers appointed by them, till the decision of the title of the rightful owner.";

(*2*) after sub-section (*1*), the following new sub-section shall be inserted, namely:—

"(*1A*) A protected tenant whose name is entered as an owner in the record of rights on the first day of January 1952 in respect of any land fifty acres or more of jirayat or twelve and half acres or more of irrigated land in area in addition to the land held by him on lease as a protected tenant shall not be entitled to any rights or privileges conferred on a protected tenant by the provisions of section 32 or 34.".

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXXI OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 21st August 1952.)

A Bill to amend the Bombay Tenancy and Agricultural Lands Act, 1948.

[Shri BHAUSAHEB HIRAY, M.L.A.]

PRINTED AT THE YERAVDA PRISON PRESS, POONA.

L. A. BILL No. XXXI OF 1952

A Bill to amend the Bombay Tenancy and Agricultural Lands Act, 1948.

(As read for the third time and passed by the Legislative Assembly on the 21st August 1952.)

(As read for the third time and passed with amendments by the Legislative Council on the 23rd August 1952.)

Bom. LXVII of 1948.

WHEREAS it is expedient to amend the Bombay Tenancy and Agricultural Lands Act, 1948, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952.

Amendment of section 5 of Bom. LXVII of 1948.

Bom. LXVII of 1948.

2. For section 5 of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as the 'said Act'), the following shall be substituted, namely:—

Period of tenancy.

"5. (*1*) No tenancy of any land shall be for a period of less than ten years:

Provided that at the end of the said period and thereafter at the end of each period of ten years in succession, the tenancy shall, subject to the provisions of sub-sections (*2*) and (*3*), be deemed to be renewed for a further period of ten years on the same terms and conditions notwithstanding any agreement to the contrary.

(*2*) The landlord may, by giving the tenant one year's notice in writing before the end of each of the periods referred to in sub-section (*1*), terminate the tenancy, with effect from the thirty-first day of March in the last year of each of the said period, if he *bona fide* requires the land for any of the purposes specified in sub-section (*1*) of section 34, but subject to the provisions of sub-sections (*2*) and (*2A*) of the said section, as if such tenant was a protected tenant.

(3) Notwithstanding anything contained in sub-section (*1*)—

(*a*) every tenancy shall, subject to the provisions of sections 24 and 25, be liable to be terminated at any time on any of the grounds mentioned in section 14; and

(*b*) a tenant may terminate the tenancy at any time by surrendering his interest as a tenant in favour of the landlord:

Provided that such surrender shall be in writing and shall be verified before the Mamlatdar in the prescribed manner.".

Amendment of section 14 of Bom. LXVII of 1948.

3. In section 14 of the said Act,—

(*1*) in sub-section (*1*), in clause (*c*), after the words "the land" the words and figures "in contravention of section 27" shall be inserted, and the following proviso shall be added at the end, namely:—

"Provided that no tenancy of any land held by a tenant shall be terminated on any of the grounds mentioned in this sub-section, unless the landlord gives three months' notice in writing intimating the tenant his decision to terminate the tenancy and the ground for such termination.";

(*2*) sub-section (*2*) shall be deleted.

Deletion of section 15 of Bom. LXVII of 1948.

4. Section 15 of the said Act shall be deleted.

Amendment of section 25 of Bom. LXVII of 1948.

5. Section 25 of the said Act shall be renumbered as sub-section (*1*) of the said section, and in the sub-section so renumbered,—

(*1*) after the words "as if the tenancy had not been terminated" the following proviso shall be added, namely:—

"Provided that if the Mamlatdar is satisfied that in consequence of total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Mamlatdar may, for reasons to be recorded in writing, direct that the arrears of rent together with the costs of the proceedings if awarded, shall be paid within one year from the date of the order and that if before the expiry of the said period, the tenant fails to pay the said arrears of rent and costs, the tenancy shall be deemed to be terminated and the tenant shall be liable to be evicted;";

(*2*) for the words "Provided that nothing in this section" the brackets, figure and words "(*2*) Nothing in this section" shall be substituted.

6. In section 27 of the said Act, Amendment of section 27 of Bom. LXVII of 1948.

(*1*) after the proviso to sub-section (*1*) add the following further proviso, namely :—

'Provided further that if the tenant dies, leaving sons or sons of predeceased sons more than one in number it shall be lawful for such sons and sons of predeceased sons (hereinafter called 'sharers'), notwithstanding anything contained in section 40, to partition and sub-divide the land leased subject to the following conditions :—

(*a*) Each sharer shall hold his share as a separate tenant.

(*b*) The rent payable in respect of the land leased shall be apportioned among sharers, as the case may be, according to the share allotted to them.

(*c*) The area allotted to each sharer shall not be less than the unit which the State Government may, by general or special order, specify in this behalf having regard to the production capacity and other circumstances relevant to the full and efficient use of the land for agriculture.

(*d*) If any question arises regarding the apportionment of the rent payable by the sharers it shall be decided by the Mamlatdar whose decision shall be final.';

(*2*) after sub-section (*2*), the following sub-section shall be added, namely :—

'(*3*) Notwithstanding anything contained in sub-section (*1*), it shall also be lawful for a tenant to mortgage, or create a charge on, his interest in the land in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883, the Agriculturists' Loans Act, 1884, or the Bombay Non-Agriculturists' Loans Act, 1928, and without prejudice to any other remedy open to the State Government in the event of his making default in payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government to cause his interest in the land to be attached and sold and the proceeds to be applied in payment of such loan.'.

XIX of 1883. XII of 1884. Bom. III of 1928.

7. In section 32 of the said Act,— Amendment of section 32 of Bom. LXVII of 1948.

(*1*) in sub-section (*4*), after the words "making an inquiry, shall" the words, brackets, figure and letter "subject to the provisions of sub-section (*4A*)" shall be

inserted, and after the words "within the prescribed period" the following shall be added, namely :—

"The protected tenant shall deposit the amount of the price with the Tribunal—

(*a*) either in a lump sum, or

(*b*) in such instalments not exceeding ten and at such intervals during a period not exceeding fifteen years and on or before such dates as may be fixed by the Tribunal in each case. The Tribunal shall thereupon cause a written notice of the deposit to be served on the landlord.";

(*2*) after sub-section (*4*), the following shall be inserted, namely:—

"(*4A*) Notwithstanding anything contained in sub-section (*4*), the State Government may, by general or special order, determine the rate of the amount of the maximum price for the purchase of any kind of land by tenants who belong to classes declared by the State Government as socially and educationally backward classes or who are the members of the Scheduled Castes or the Scheduled Tribes. In determining such rate, the State Government shall take into consideration the rent payable for the land and other factors specified in sub-section (*4*) of section 66.";

(*3*) in sub-section (*5*),—

(*a*) (*i*) for the words "On such deposit being made" the words "On the deposit of the entire amount of the price" shall be substituted;

(*ii*) after the words "interested therein" the following shall be inserted, namely:—

"The Tribunal shall also direct that the entire amount of the price deposited shall be paid to the landlord. If the protected tenant fails to pay the entire amount of the price within the period fixed under sub-section (*4*) the purchase shall not be effective and the amount deposited by the protected tenant shall be refunded to him." and

(*b*) the following proviso shall be added at the end, namely:—

"Provided that until the deposit of the entire amount is made in a lump sum or until the deposit of the last of the instalments is made, the liability of the protected tenant to pay the rent due in respect of the land shall continue and shall not be affected.";

(*4*) in sub-section (*6*), the proviso shall be deleted ;

(5) in clause (b) of sub-section (7), after the words "to be purchased" the words "or the amount of the price or any instalment thereof to be deposited" shall be added.

(6) after sub-section (7), the following new sub-section shall be inserted, namely :—

"(8) Nothing in section 64 shall affect the right of a protected tenant to purchase under this section the land held by him on lease.".

Amendment of section 34 of Bom. LXVII of 1948.

8. In section 34 of the said Act,—

(1) in sub-section (2), in clause (a), the second proviso shall be deleted;

(2) after clause (b) the following shall be added, namely :—

"or

(c) to terminate the tenancy of a protected tenant on the ground that the landlord requires the land for cultivating it personally, unless the income by the cultivation of such land will be the main source of the income of the landlord for his maintenance.";

(3) after sub-section (2), the following new sub-section shall be inserted, namely :—

"(2-A) If the landlord *bona fide* requires the land for any of the purposes specified in sub-section (1) then his right to terminate the tenancy shall be subject to the following conditions, namely :—

(1) The land held by the protected tenant on lease stands in the record of rights in the name of the landlord on the first day of January 1952 as the superior holder.

(2) If the land held by the landlord is in area equal to the agricultural holding or less, the landlord shall be entitled to terminate the tenancy of the protected tenant in respect of the entire area of such land.

(3) If the land held by the landlord is more than the agricultural holding in area, the right of the landlord to terminate the tenancy of the protected tenant shall be limited to an area which shall, after such termination, leave with the tenant half the area of the land leased.

(4) The tenancy in respect of the land left with the protected tenant after termination under this section shall not at any time be liable to be terminated on the ground that the landlord *bona fide* requires the said land for any of the purposes specified in sub-section (1).

Explanation.—The 'agricultural holding' shall mean sixteen acres of jirayat land or four acres of irrigated or

paddy or rice land, or lands greater or less in area than the aforesaid areas in the same proportion :

Provided that the State Government may by general or special order direct that the limits of the agricultural holding specified in this section shall for any local area or tract be varied, if the State Government is satisfied that such variation is necessary or expedient in the interest of either the landlord or the tenant or for ensuring the full and efficient use of land for agriculture."

(*4*) in sub-section (*3*), for the words, brackets and figure "If under sub-section (*2*)" the words, brackets, figures and letter "If under sub-section (*2*) or (*2A*)" shall be substituted;

(*5*) after sub-section (*3*), the following shall be added, namely :—

"(*4*) Nothing in clause (*a*) of sub-section (*2*) or in sub-section (*2A*) shall authorize the termination of the tenancy in such a manner as will result in contravention of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, or in making any part of the land leased a fragment within the meaning of the said Act.". Bom. LXII of 1947.

Deletion of section 35 of Bom. LXVII of 1948.

9. Section 35 of the said Act shall be deleted.

Amendment of section 36 of Bom. LXVII of 1948.

10. In section 36 of the said Act,—

(*1*) in sub-section (*1*), the figures and the word "32 or" shall be deleted, and for the words "and two hundred acres specified in either of the said sections" the words and figures "specified in section 34" shall be substituted;

(*2*) in sub-section (*2*), for the words "and two hundred acres specified in the said sections" the words "specified in the said section" shall be substituted.

Amendment of section 44 of Bom. LXVII of 1948.

11. In section 44 of the said Act, for the words "for the purpose of improving the economic and social conditions of peasants or" the words "for the said purpose or for the purpose of" shall be substituted.

Amendment of section 45 of Bom. LXVII of 1948.

12. Section 45 of the said Act shall be renumbered as sub-section (*1*) of the said section and after sub-section (*1*) so renumbered, the following shall be added, namely :—

"(*2*) Notwithstanding the vesting of the estate in the State Government under sub-section (*1*), the tenant holding the lands on lease comprised in the estate shall, save as otherwise provided in this Chapter, continue to have the same rights and shall be subject to the same obligations, as they have or are subject under the preceding Chapters in respect of the lands held by them on lease."

13. In section 58 of the said Act, in the second proviso, after the words "for the benefit of the estate" the words and figures "or unless such sale is in favour of a protected tenant under section 32" shall be inserted. Amendment of section 58 of Bom. LXVII of 1948.

14. In section 74 of the said Act, in sub-section (*1*), after clause (*m*), the following clause shall be inserted, namely:— Amendment of section 74 of Bom. LXVII of 1948.

"(*mm*) an order under section 31,".

15. For section 74A of the said Act, the following shall be substituted, namely:— Amendment of section 74A of Bom. LXVII of 1948.

"74A. The Collector may, after due notice to the parties, by order in writing,—

(*a*) transfer any appeal pending before him or before any Assistant or Deputy Collector subordinate to him to any Assistant or Deputy Collector specified in such order, performing the duties and exercising the powers of a Collector and upon such transfer the Assistant Collector or the Deputy Collector, as the case may be, shall have power to hear and decide the appeal as if it was originally filed to him; or Powers of Collector to transfer and withdraw appeals.

(*b*) withdraw any appeal pending before any Assistant or Deputy Collector and himself hear and decide the same.".

16. In section 88 of the said Act,—

(*1*) in sub-section (*1*),— Amendment of section 88 of Bom. LXVII of 1948.

(*a*) for clause (*c*), the following shall be substituted, namely:—

"(*c*) to any area within the limits of Greater Bombay, within the limits of the municipal corporations constituted under the Bombay Provincial Municipal Corporations Act, 1949, within the limits of the municipal boroughs constituted under the Bombay Municipal Boroughs Act, 1925, and within the limits of any cantonment, or"; Bom. LIX of 1949. Bom. XVIII of 1925.

(*b*) the following proviso shall be added, namely:—

"Provided that nothing in this sub-section shall apply to any lands forming part of an estate taken under management by and vesting in the State Government under Chapter IV, or to the lands taken under management temporarily by the Civil, Revenue or Criminal Courts by themselves or through the receivers appointed by them, till the decision of the title of the rightful owner.";

(2) after sub-section (*1*), the following new sub-section shall be inserted, namely:—

"(*1A*) A protected tenant whose name stands entered as an owner in the record of rights on the first day of January 1952 in respect of any land fifty acres or more of jirayat or twelve and half acres or more of irrigated land in area in addition to the land held by him on lease as a protected tenant shall not be entitled to any rights or privileges conferred on a protected tenant by the provisions of section 32 or 34.".

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXXI OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 21st August 1952.)

(As read for the third time and passed with Amendments by the Legislative Council on the 23rd August 1952.)

A Bill to amend the Bombay Tenancy and Agricultural Lands Act, 1948.

[Shri BHAUSAHEB HIRAY, M.L.A.]

PRINTED AT THE YERAVDA PRISON PRESS, POONA

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

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The following Act of the Bombay Legislature having been assented to by the President on the 6th January 1953 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXXIII OF 1952.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 12th January 1953.)

An Act to amend the Bombay Tenancy and Agricultural Lands Act, 1948.

Bom. LXVII of 1948.

WHEREAS it is expedient to amend the Bombay Tenancy and Agricultural Lands Act, 1948, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952.

Bom. LXVII of 1948.

Amendment of section 5 of Bom. LXVII of 1948.

2. For section 5 of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as the 'said Act'), the following shall be substituted, namely :—

Period of tenancy.

"5. (1) No tenancy of any land shall be for a period of less than ten years :

Provided that at the end of the said period and thereafter at the end of each period of ten years in succession, the tenancy shall, subject to the provisions of

sub-sections (*2*) and (*3*), be deemed to be renewed for a further period of ten years on the same terms and conditions notwithstanding any agreement to the contrary.

(*2*) The landlord may, by giving the tenant one year's notice in writing before the end of each of the periods referred to in sub-section (*1*), terminate the tenancy, with effect from the thirty-first day of March in the last year of each of the said period, if he *bona fide* requires the land for any of the purposes specified in sub-section (*1*) of section 34, but subject to the provisions of sub-sections (*2*) and (*2A*) of the said section, as if such tenant was a protected tenant.

(*3*) Notwithstanding anything contained in sub-section (*1*)—

(*a*) every tenancy shall, subject to the provisions of sections 24 and 25, be liable to be terminated at any time on any of the grounds mentioned in section 14 ; and

(*b*) a tenant may terminate the tenancy at any time by surrendering his interest as a tenant in favour of the landlord :

Provided that such surrender shall be in writing and shall be verified before the Mamlatdar in the prescribed manner.".

Amendment of section 14 of Bom. LXVII of 1948.

3. In section 14 of the said Act,—

(*1*) in sub-section (*1*), in clause (*c*), after the words "the land" the words and figures "in contravention of section 27" shall be inserted, and the following proviso shall be added at the end, namely :—

"Provided that no tenancy of any land held by a tenant shall be terminated on any of the grounds mentioned in this sub-section, unless the landlord gives three months' notice in writing intimating the tenant his decision to terminate the tenancy and the ground for such termination ." ;

(*2*) sub-section (*2*) shall be deleted.

Deletion of section 15 of Bom. LXVII of 1948.

4. Section 15 of the said Act shall be deleted.

Amendment of section 25 of Bom. LXVII of 1948.

5. Section 25 of the said Act shall be renumbered as sub-section (*1*) of the said section, and in the sub-section so renumbered,—

(*1*) after the words "as if the tenancy had not been terminated" the following proviso shall be added, namely :—

"Provided that if the Mamlatdar is satisfied that in consequence of total or partial failure of crops or similar calamity the tenant has been unable to pay the rent due, the Mamlatdar may, for reasons to be recorded in writing, direct that the arrears of rent together with the costs of the proceedings if awarded, shall be paid within one year from the date of the order and that if before the expiry of the said period, the tenant fails to pay the said arrears of rent and costs, the tenancy shall be deemed to be terminated and the tenant shall be liable to be evicted ;" ;

(*2*) for the words "Provided that nothing in this section" the brackets, figure and words "(*2*) Nothing in this section" shall be substituted.

6. In section 27 of the said Act,— Amendment of section 27 of Bom. LXVII of 1948.

(*1*) after the proviso to sub-section (*1*) add the following further proviso, namely :—

"Provided further that if the tenant dies, leaving sons or sons of predeceased sons more than one in number it shall be lawful for such sons and sons of predeceased sons (hereinafter called 'sharers'), notwithstanding anything contained in section 40, to partition and sub-divide the land leased subject to the following conditions :—

(*a*) Each sharer shall hold his share as a separate tenant.

(*b*) The rent payable in respect of the land leased shall be apportioned among sharers, as the case may be, according to the share allotted to them.

(*c*) The area allotted to each sharer shall not be less than the unit which the State Government may, by general or special order, specify in this behalf having regard to the production capacity and other circumstances relevant to the full and efficient use of the land for agriculture.

(*d*) If any question arises regarding the apportionment of the rent payable by the sharers it shall be decided by the Mamlatdar whose decision shall be final.";

(*2*) after sub-section (*2*), the following sub-section shall be added, namely :—

"(*3*) Notwithstanding anything contained in sub-section (*1*), it shall also be lawful for a tenant to mortgage, or create a charge on, his interest in the land in favour of the State Government in consideration of a loan advanced to him by the State Government under the Land Improvement Loans Act, 1883, the Agriculturists' Loans Act, 1884, or the Bombay Non-Agriculturists' Loans Act, 1928, and without prejudice to any other remedy open to the State Government in the event of his making default in payment of such loan in accordance with the terms on which such loan was granted, it shall be lawful for the State Government to cause his interest in the land to be attached and sold and the proceeds to be applied in payment of such loan.".

XIX of 1883. XII of 1884. Bom. III of 1928.

7. In section 32 of the said Act,— Amendment of section 32 of Bom. LXVII of 1948.

(*1*) in sub-section (*4*), after the words "making an inquiry, shall" the words, brackets, figure and letter "subject to the provisions of sub-section (*4A*)" shall be inserted, and after the words "within the prescribed period" the following shall be added, namely :—

"The protected tenant shall deposit the amount of the price with the Tribunal—

(*a*) either in a lump sum, or

(*b*) in such instalments not exceeding ten and at such intervals during a period not exceeding fifteen years and on or before such dates as may be fixed by the Tribunal in each case. The Tribunal shall thereupon cause a written notice of the deposit to be served on the landlord.";

(2) after sub-section (4), the following shall be inserted, namely :—

"(4A) Notwithstanding anything contained in sub-section (4), the State Government may, by general or special order, determine the rate of the amount of the maximum price for the purchase of any kind of land by tenants who belong to classes declared by the State Government as socially and educationally backward classes or who are the members of the Scheduled Castes or the Scheduled Tribes. In determining such rate, the State Government shall take into consideration the rent payable for the land and other factors specified in sub-section (4) of section 66." ;

(3) in sub-section (5),—

(a) (i) for the words "On such deposit being made" the words "On the deposit of the entire amount of the price" shall be substituted ;

(ii) after the words "interested therein" the following shall be inserted, namely :—

"The Tribunal shall also direct that the entire amount of the price deposited shall be paid to the landlord. If the protected tenant fails to pay the entire amount of the price within the period fixed under sub-section (4) the purchase shall not be effective and the amount deposited by the protected tenant shall be refunded to him."

and

(b) the following proviso shall be added at the end, namely :—

"Provided that until the deposit of the entire amount is made in a lump sum or until the deposit of the last of the instalments is made, the liability of the protected tenant to pay the rent due in respect of the land shall continue and shall not be affected." ;

(4) in sub-section (6), the proviso shall be deleted ;

(5) in clause (b) of sub-section (7), after the words "to be purchased" the words "or the amount of the price or any instalment thereof to be deposited" shall be added ;

(6) after sub-section (7), the following new sub-section shall be inserted, namely :—

"(8) Nothing in section 64 shall affect the right of a protected tenant to purchase under this section the land held by him on lease.".

Amendment of section 34 of Bom. LXVII of 1948.

8. In section 34 of the said Act,—

(1) in sub-section (2), in clause (a), the second proviso shall be deleted ;

(2) after clause (b) the following shall be added, namely :—

"or

(c) to terminate the tenancy of a protected tenant on the ground that the landlord requires the land for cultivating it personally, unless the income by the cultivation of such land will be the main source of the income of the landlord for his maintenance.";

(3) after sub-section (2), the following new sub-section shall be inserted, namely :—

" (2-A) If the landlord *bona fide* requires the land for any of the purposes specified in sub-section (1) then his right to terminate the tenancy shall be subject to the following conditions, namely :—

(1) The land held by the protected tenant on lease stands in the record of rights in the name of the landlord on the first day of January 1952 as the superior holder.

(2) If the land held by the landlord is in area equal to the agricultural holding or less, the landlord shall be entitled to terminate the tenancy of the protected tenant in respect of the entire area of such land.

(3) If the land held by the landlord is more than the agricultural holding in area, the right of the landlord to terminate the tenancy of the protected tenant shall be limited to an area which shall, after such termination, leave with the tenant half the area of the land leased.

(4) The tenancy in respect of the land left with the protected tenant after termination under this section shall not at any time be liable to be terminated on the ground that the landlord *bona fide* requires the said land for any of the purposes specified in sub-section (1).

Explanation.—The 'agricultural holding' shall mean sixteen acres of jirayat land or four acres of irrigated or paddy or rice land, or lands greater or less in area than the aforesaid areas in the same proportion :

Provided that the State Government may by general or special order direct that the limits of the agricultural holding specified in this section shall for any local area or tract be varied, if the State Government is satisfied that such variation is necessary or expedient in the interest of either the landlord or the tenant or for ensuring the full and efficient use of land for agriculture." ;

(4) in sub-section (3), for the words, brackets and figure " If under sub-section (2)" the words, brackets, figures and letter " If under sub-section (2) or (2A)" shall be substituted ;

(5) after sub-section (3), the following shall be added, namely :—

" (4) Nothing in clause (a) of sub-section (2) or in sub-section (2A) shall authorize the termination of the tenancy in such a manner as will result in contravention of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, or in making any part of the land leased a fragment within the meaning of the said Act.".

Bom. LXII of 1947.

9. Section 35 of the said Act shall be deleted.

Deletion of section 35 of Bom. LXVII of 1948.

10. In section 36 of the said Act,—

Amendment of section 36 of Bom. LXVII of 1948.

(1) in sub-section (1), the figures and the word " 32 or " shall be deleted, and for the words " and two hundred acres specified in either of the said sections " the words and figures " specified in section 34 " shall be substituted ;

(2) in sub-section (2), for the words "and two hundred acres specified in the said sections" the words "specified in the said section" shall be substituted.

Amendment of section 44 of Bom. LXVII of 1948.

11. In section 44 of the said Act, for the words "for the purpose of improving the economic and social conditions of peasants or" the words "for the said purpose or for the purpose of" shall be substituted.

Amendment of section 45 of Bom. LXVII of 1948.

12. Section 45 of the said Act shall be renumbered as sub-section (1) of the said section and after sub-section (1) so renumbered, the following shall be added, namely :—

"(2) Notwithstanding the vesting of the estate in the State Government under sub-section (1), the tenant holding the lands on lease comprised in the estate shall, save as otherwise provided in this Chapter, continue to have the same rights and shall be subject to the same obligations, as they have or are subject under the preceding Chapters in respect of the lands held by them on lease."

Amendment of section 58 of Bom. LXVII of 1948.

13. In section 58 of the said Act, in the second proviso, after the words "for the benefit of the estate" the words and figures "or unless such sale is in favour of a protected tenant under section 32" shall be inserted.

Amendment of section 74 of Bom. LXVII of 1948.

14. In section 74 of the said Act, in sub-section (1), after clause (*m*), the following clause shall be inserted, namely :—

"(*mm*) an order under section 31,".

Amendment of section 74A of Bom. LXVII of 198

15. For section 74A of the said Act, the following shall be substituted, namely :—

Powers of Collector to transfer and withdraw appeals.

"74A. The Collector may, after due notice to the parties, by order in writing,—

(*a*) transfer any appeal pending before him or before any Assistant or Deputy Collector subordinate to him to any Assistant or Deputy Collector specified in such order, performing the duties and exercising the powers of a Collector and upon such transfer the Assistant Collector or the Deputy Collector, as the case may be, shall have power to hear and decide the appeal as if it was originally filed to him ; or

(*b*) withdraw any appeal pending before any Assistant or Deputy Collector and himself hear and decide the same.".

Amendment of section 88 of Bom. LXVII of 1948.

16. In section 88 of the said Act,—

(1) in sub-section (1),—

(*a*) for clause (*c*), the following shall be substituted, namely :—

"(*c*) to any area within the limits of Greater Bombay, within the limits of the municipal corporations constituted under the Bombay Provincial Municipal Corporations Act, 1949, within the limits of the municipal boroughs constituted under the Bombay Municipal Boroughs Act, 1925, and within the limits of any cantonment, or" ; Bom. LIX of 1949. Bom. XVIII of 1925.

(*b*) the following proviso shall be added, namely :—

"Provided that nothing in this sub-section shall apply to any lands forming part of an estate taken under management by and vesting in the State Government under Chapter IV, or to the lands taken under management

temporarily by the Civil, Revenue or Criminal Courts by themselves or through the receivers appointed by them, till the decision of the title of the rightful owner.";

(2) after sub-section (*1*), the following new sub-section shall be inserted, namely:—

"(*1A*) A protected tenant whose name stands entered as an owner in the record of rights on the first day of January 1952 in respect of any land fifty acres or more of jirayat or twelve and half acres or more of irrigated land in area in addition to the land held by him on lease as a protected tenant shall not be entitled to any rights or privileges conferred on a protected tenant by the provisions of section 32 or 34.".

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Legal Deptt

Subd. for information.

17/5/11

The Act as published has been checked and is in order.

S.S. 15/5/11

Part 15/5/11

A.S. (L) 16/5/11